



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,394	01/09/2004	Michael Frank Walsh	WMFR-P01-001	9186

28120 7590 08/25/2005

FISH & NEAVE IP GROUP  
ROPES & GRAY LLP  
ONE INTERNATIONAL PLACE  
BOSTON, MA 02110-2624

EXAMINER

GARCIA, ERNESTO

ART UNIT PAPER NUMBER

3679

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/754,394	WALSH, MICHAEL FRANK	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ernesto Garcia	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9 and 11 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

Y

### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 12, 2005 has been entered.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Election of Species***

Claim 3 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 12/13/04.

### ***Drawings***

The drawings were received on 5/12/2005. These drawings are not acceptable.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "10" shown in Figure 5.

The drawings are objected to because Figure 1 has two views. Applicant needs to separate the alternate position of the mechanism into a different view and label the drawing "Figure 1B". See CFR 1.84(h)(4) and 1.84(i). Further, the cross-sectional views, except for Figure 2, should be hatched.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the box, the collapsible box, and the net (claim 8) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and

Art. Unit: 3679

appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the recited limitations "attachments" in claims 1, 7, 9, and 11, line 5, and "by which a container is attached to the main structure and the trap" in claims 1, 7, 9, and 11, line 5, "the release pin, a lift spring, and the one or more ball bearing or slugs interact with the geometry of the trap" in claim 7, lines 8-9, and "the release pin, a trap spring, and the one or more ball bearings or slugs interact with the geometry of the trap" in claim 11, lines 8-10, lack proper antecedent basis in the specification.

***Claim Objections***

Claims 2, 7, 8, and 11 are objected to because of the following informalities:  
regarding claim 2, --the-- needs to be inserted after "at" in line 2;  
regarding claims 7 and 11, "interacts" in line 9 should be --interact--; and,  
regarding claim 8, the use of the Markush language is not set properly. For purposes of examining the instant invention, the examiner has assumed these corrections have been made. Appropriate correction is required;

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant never established that the ball bearings have a coefficient of static friction less than 0.15. Page 8 makes a general comment about dry

surfaces and indicates that the rollers may be significantly lower than 0.15. Applicant never mentioned that the coefficient of the ball bearings can be lower than 0.15.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 6, the limitation "pushes" in line 2 makes the claim a living claim. Is the hanger pushing non-stop? Further, it is unclear how the hanger 12 is able to push the internal spring pin 2 down? According to Figure 3, the hanger 12 is away from the internal spring pin.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 7, 8, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by De Pew, 3,065,011 (see marked-up attachment).

Regarding claim 1, De Pew discloses, in Figure 1, a low-force release mechanism comprising a main structure **12**, a trap **11**, an internal spring pin **41**, an internal spring **46**, a release pin **20**, a least one trigger **38**, at least one (one or more) ball bearings **21**, and attachments **A15** by which a container **A8** is attached to the main structure **12** and the trap **11**. A load force is distributed away from the trigger **38**. The release pin **20** and the at least one of the ball bearings **21** interact with a geometry of the trap **11**.

Applicant is reminded that the functional "whereby" statement does not define any structure and accordingly cannot serve to distinguish. In re Mason, 114 USPQ 127, 44 CCPA 937 (1957). Further, the limitation "when the release pin is pushed between one or more ball bearings or slugs in an internal geometry of the trap, the position of said trap is locked and held" in lines 6-7 is given limited patentable weight as the release pin is not positively between one or more ball bearings and the internal geometry of the trap thus not required.

Regarding claim 2, the release pin **20** and the at least one of the ball bearings **21** lock and hold a position of the trap **11**.

Regarding claim 5, the mechanism further comprises a hanger **13**.



Regarding claim 7, De Pew discloses, in Figure 1, a low-force release mechanism comprising a main structure **12**, a trap **11**, an internal spring pin **41**, an internal spring **46**, a release pin **20**, a least one trigger **38**, at least one (one or more) ball bearings **21**, and attachments **A15** by which a container **A8** is attached to the main structure **12** and the trap **11**, and a lift spring **30**. A load force is distributed away from the trigger **38**. The release pin **20**, the lift spring **30**, and the at least one of the ball bearings **21** interact with a geometry of the trap **11**.

Applicant is reminded that the limitation "when the release pin is pushed between one or more ball bearings or slugs in an internal geometry of the trap, the position of said trap is locked and held" in lines 6-7 is given limited patentable weight as the release pin is not positively between one or more ball bearings and the internal geometry of the trap thus not required. Further, the application of the low force on the trigger **38** can cause the internal spring pin, the internal spring, and the release pin to move a position of the container.

Regarding claim 8, the container is selected from bags, boxes, collapsible boxes, and nets.

Regarding claim 11, De Pew discloses, in Figure 1, a low-force release mechanism comprising a main structure **12**, a trap **11**, an internal spring pin **41**, an internal spring **46**, a release pin **20**, a least one trigger **38**, at least one (one or more)

Art Unit: 3679

ball bearings **21**, and attachments **A15** by which a container **A8** is attached to the main structure **12** and the trap **11**, and a trap spring **39**. A load force is distributed away from the trigger **38**. The release pin **20**, and the trap spring **39**, and the at least one of the ball bearings **21** interact with a geometry of the trap **11**.

Applicant is reminded that the limitation "when the release pin is pushed between one or more ball bearings or slugs in an internal geometry of the trap, the position of said trap is locked and held" in lines 6-7 is given limited patentable weight as the release pin is not positively between one or more ball bearings and the internal geometry of the trap thus not required. Further, the application of the low force on the trigger **38** can cause the internal spring pin, the internal spring, and the release pin to move a position of the container.

Regarding claim 10, the load force is distributed to the main structure **12** and the trap **11**.

### ***Claim Rejections - 35 USC § 103***

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over De Pew, 3,065,011, in view of Hamblin, 4,887,919.

Regarding claim 4, the one or more ball bearings **21** are low frictional ball bearings; however, the one or more ball bearings don't have a coefficient of static friction less than 0.15. Applicant is reminded that low friction ball bearings have been known to exist and one skilled in the art would have purchased or made ball bearings with a coefficient of static friction less than 0.15 as evidenced by Hamblin. Therefore, as taught by Hamblin, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the ball bearings with a static coefficient of static friction less than 0.15 to minimize friction.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over De Pew, 3,065,011, in view of Huff, 1,027,481.

Regarding claim 9, De Pew discloses, in Figure 1, a low-force release mechanism comprising a main structure **12**, a trap **11**, an internal spring pin **41**, an internal spring **46**, a release pin **20**, a least one trigger **38**, at least one (one or more) ball bearings **21**, and attachments **A15** by which a container **A8** is attached to the main structure **12** and the trap **11**, and a lift spring **30**. A load force is distributed away from the trigger **38**. The release pin **20** and the at least one of the ball bearings **21** interact with a geometry of the trap **11**. However, De Pew fails to disclose a string attached to the trigger **38**. Instead, De Pew teaches a wire attached to the trigger **38**. Huffe, however, teaches, in Figure 2, a string attached to a trigger D8 to release a low force mechanism. Therefore, as taught by Huff, it would have been obvious to one of

Art Unit: 3679

ordinary skill in the art at the time the invention was made to replace the wire with a string to move the trigger thus releasing the low-force mechanism.

Applicant is reminded that the functional "whereby" statement does not define any structure and accordingly cannot serve to distinguish. In re Mason, 114 USPQ 127, 44 CCPA 937 (1957). Further, the limitation "when the release pin is pushed between one or more ball bearings or slugs in an internal geometry of the trap, the position of said trap is locked and held" in lines 6-7 is given limited patentable weight as the release pin is not positively between one or more ball bearings and the internal geometry of the trap thus not required. Also, the application of the low force on the trigger **38** can cause the internal spring pin, the internal spring, and the release pin to move a position of the container.

### ***Allowable Subject Matter***

Claim 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 6, the prior art of record does not disclose or suggest a low-force release mechanism comprising a hanger pushing an internal spring pin down.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 2, 4, 5, 7, and 9-11 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30-5:30. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Art Unit: 3679

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*E.P.*

*Daniel P Stodola*

E.G.

August 22, 2005

Attachment: one marked-up page of De Pew, 3,065,011

DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

Art Unit: 3679

De Pew, 3,065,011

